

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments) MM Docket No. 95-76
FM Broadcast Stations) RM-8611
(Homestead and North Miami)
Beach, Florida))

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To: Chief, Allocations Branch

COMMENTS OF NEW AGE BROADCASTING, INC.

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NEW AGE BROADCASTING, INC.

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List A B C D E

TABLE OF CONTENTS

	<u>Page</u>
<i>SUMMARY</i>	i
<i>I. INTRODUCTION</i>	2
<i>II. NORTH MIAMI BEACH WARRANTS A FIRST LOCAL TRANSMISSION SERVICE PREFERENCE BASED ON CLEAR COMMISSION PRECEDENT</i>	3
<i>III. NORTH MIAMI BEACH IS A UNIQUE AND DISTINCTLY IDENTIFIABLE RESIDENTIAL AND COMMERCIAL CENTER WHICH NEEDS AND DESERVES ITS OWN INDEPENDENT RADIO VOICE</i>	5
A. North Miami Beach Has a Popularly Elected Government that Provides Most of its Essential Public Services	5
B. North Miami Beach Has a Distinct and Growing Residential Population with Unique Needs and Interests	7
C. Local North Miami Beach Residents Boast a Distinct Social and Cultural Identity	8
D. The City Possesses a Robust Local Economy, Which is Actively Promoted by Government and Business Leaders	11
<i>IV. REALLOCATION OF WXDJ TO NORTH MIAMI BEACH WILL RESULT IN SUBSTANTIAL IMPROVEMENTS IN THE STATION'S SERVICE WITH ONLY A <u>DE MINIMIS</u> IMPACT ON EXISTING LISTENERS</i>	15
<i>V. CONCLUSION</i>	18

APPENDICES

ENGINEERING REPORT

SUMMARY

New Age Broadcasting, Inc. ("New Age"), is the licensee of WXDJ(FM), Homestead, Florida. These comments are filed in support of its original petition to change the station's community of license to North Miami Beach, Florida.

New Age demonstrates that the proposed changes would further the Commission's allotment priorities by providing the City of North Miami Beach with its first local transmission service. As a critical threshold matter, New Age merely proposes to move from one community within the Miami-Hialeah Urbanized Area to another community within the same Urbanized Area. Consequently, consistent with recent precedent, North Miami Beach, which currently lacks an independent radio voice, should be granted a first local transmission service preference.

North Miami Beach is equally deserving of a first transmission service preference because it is a thriving and independent municipality, which greatly needs its own media forum for self-expression. North Miami Beach, a three-quarter century old city, has a responsive and active local government, which provides virtually all essential community services. The local residential population is rapidly expanding and boasts a distinct social and cultural identity. The city also is a vigorous economic center, with growing retail and commercial businesses that provide all the goods and services needed by the resident population. Further, individual statements from key governmental, business, religious, and social leaders attest to the independence of North Miami Beach and the necessity of achieving its first truly local broadcast voice.

The proposed reallocation to North Miami Beach would produce other significant public interest benefits. WXDJ would be able to provide a new alternative radio service to a substantially larger audience without any detrimental effects to existing listeners. Moreover, Homestead, which is part of and interdependent with the Miami-Hialeah Urbanized Area, would continue to have a plethora of aural transmission and reception services.

Accordingly, reallocation of WXDJ's channel as proposed, would provide a valuable first local transmission service to a vibrant and growing community, furnish a new alternative radio voice to a greater audience, and have only a de minimis impact on any existing listeners. Therefore, New Age's proposal should be expeditiously adopted.

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To: Chief, Allocations Branch

COMMENTS OF NEW AGE BROADCASTING, INC.

New Age Broadcasting, Inc. ("New Age"), licensee of Radio Station WXDJ(FM), Channel 239C1, Homestead, Florida, by its attorneys, submits herewith the following comments in response to the Notice of Proposed Rulemaking ("Notice") released in the above-captioned matter on June 9, 1995. The Notice proposes to amend the Table of FM Allotments, 47 C.F.R. § 73.202(b), to delete Channel 239C1 from Homestead, Florida, add Channel 239C2 to North Miami Beach, Florida, and modify WXDJ's license accordingly. As demonstrated in New Age's petition for rulemaking ("Petition") and further elaborated upon in these additional comments, the proposed changes will greatly enhance the public interest by providing North Miami Beach with its first local transmission service and substantially improving WXDJ's existing radio service.

New Age hereby incorporates by reference its Petition in this docket and restates its intention to apply for the channel if it is allotted, and if authorized, to build the station promptly.

I. INTRODUCTION

In its original Petition, New Age carefully documented how the proposed relocation of WXDJ to North Miami Beach would further the Commission's allotment priorities. North Miami Beach, a thriving and independent municipality located within the expansive and diverse Miami-Hialeah Urbanized Area, would receive its first local transmission service. The relocation would also create a new alternative radio voice for a significant population, while having only a de minimis impact on listeners who would theoretically lose service from WXDJ. Further, Homestead, which is part of and interdependent with the Miami-Hialeah Urbanized Area, would continue to be well served by at least one local transmission service (an application proposing a new noncommercial educational FM station at Homestead also remains pending), and would continue to receive protected service from WXDJ and twenty-two other "reception" services (as defined by the Notice), and protected day-time service from an additional eleven AM stations.

In these "Comments," New Age further explains how adoption of the rulemaking proposals will provide substantial public interest benefits in several important respects. Consistent with recent precedent, North Miami Beach deserves and would benefit from a first local transmission service preference. WXDJ seeks merely to improve its service by relocating within the same Urbanized Area. North Miami Beach, a three-quarter century old municipality with a growing Hispanic population, is locally governed and independent from the larger urban environment for its essential services and economic well-being. WXDJ, with its Spanish-language programming, is uniquely situated to provide the North Miami Beach general and

Hispanic populations with a valuable outlet for critically needed information and a forum for self-expression. Finally, the relocation would enable WXDJ to provide a new service to a substantially larger audience without any detrimental effects to existing listeners. Therefore, the Commission should promptly adopt the changes proposed in the Notice.

II. NORTH MIAMI BEACH WARRANTS A FIRST LOCAL TRANSMISSION SERVICE PREFERENCE BASED ON CLEAR COMMISSION PRECEDENT

In apparent recognition of Faye and Richard Tuck, 3 FCC Rcd 5374 (1988), the Notice initially poses the question whether North Miami Beach, which is located within the Miami-Hialeah Urbanized Area but lacks its own radio voice, should receive a first local transmission service preference, or whether it should be credited with all the radio services available in the entire Miami-Hialeah Urbanized Area.¹ Under Faye and Richard Tuck, the Commission will normally attribute to a suburban community all the radio sources of the larger, nearby urban area, unless it can be shown that the suburban community is sufficiently independent of the urban area to warrant a first transmission preference. Typically, the Commission applies that reasoning to cases where the mere mechanical application of the Commission's allotment priorities would permit a station located conspicuously outside or far beyond a particular metropolitan area effectively to "move in" to a larger urban market.²

¹ Notice at ¶ 4.

² See Faye and Richard Tuck, 3 FCC Rcd 5374 (1988); Huntington Broadcasting Co. v. FCC, 192 F.2d 33 (D.C. Cir. 1951).

The Faye and Richard Tuck analysis is, however, not applicable to this case. As the Notice recognizes, both Homestead and North Miami Beach are located in the Miami-Hialeah Urbanized Area. In a factually identical case, the Allocations Branch recently held that it would not apply Faye and Richard Tuck to a request to move KLAX-FM from Long Beach to East Los Angeles, California, both of which are in the Los Angeles Urbanized Area. Specifically, the Branch found that the general concern of using the first local transmission preference policy as a mechanism to enter a larger market simply:

do[es] not exist in cases such as the instant one where a station is already licensed to a community in an urbanized area and seeks to change its community of license to another community in the same urbanized area. In such cases, a first local service preference is not being used as a basis to enter the market.³

As a result, East Los Angeles, without further analysis from the Branch, was awarded a first local transmission service preference.

New Age similarly seeks merely to move within an Urbanized Area. As shown in the Petition, WXDJ not only is licensed to a community within the Miami-Hialeah Urbanized Area, it currently provides protected service to the entire greater metropolitan market. WXDJ's licensed 1 mV/m contour covers one hundred percent (100%) of the Urbanized Area, and its 3.16 mV/m contour provides service to eighty percent (80%) of the Urbanized Area.⁴ Since WXDJ already occupies a strong presence in the Miami metropolitan market, therefore, clearly no danger exists of the station abusing the Commission's first transmission service preference

³ East Los Angeles, 10 FCC Rcd 2856, 2868-69 (Allocations Branch, 1995), pet. for recon. on other issues pending, filed by Antelope Broadcasting Company, April 24, 1995.

⁴ New Age Petition at 6.

policy by encroaching on the larger market. Thus, consistent with East Los Angeles, the Commission should grant North Miami Beach, which currently lacks a radio voice, a first local transmission service preference under its allotment priorities.

III. NORTH MIAMI BEACH IS A UNIQUE AND DISTINCTLY IDENTIFIABLE RESIDENTIAL AND COMMERCIAL CENTER WHICH NEEDS AND DESERVES ITS OWN INDEPENDENT RADIO VOICE

Even if the Commission were to ignore the clear precedent and compelling logic of East Los Angeles, it must find that North Miami Beach is a distinct and independent community from the larger metropolitan Miami area. The city not only has existed as a separate community for almost seventy years, it has succeeded in promoting its unique qualities to attract and maintain a strong and distinct residential and commercial base. The City of North Miami Beach, therefore, is precisely the type of independent community the Commission's allocation priorities are designed to serve.

A. North Miami Beach Has a Popularly Elected Government that Provides Most of its Essential Public Services

North Miami Beach, incorporated in the mid-1920's, has a popularly elected mayor and city council.⁵ This local governmental framework oversees and provides most of the essential services for the community, including police, streets and storm drainage, code enforcement, parks and recreation, sanitary sewers (in part), water, garbage/trash collection, city planning and

⁵ New Age Petition at 7-8.

zoning.⁶ Equally important, the city has excellent public educational facilities. North Miami Beach has nine public elementary, middle and high schools, and operates its own public library.⁷

City officials have expressly acknowledged the independence and separateness of their community. On July 5, 1994, the City Counsel passed Resolution No. R94-31, which recognized the "distinct needs and interests" of the city and supported New Age's request to become the city's first true local radio voice.⁸ Further, Raymond F. Marin, a long-time resident of North Miami Beach and its Vice Mayor, describes the city as "unique" and "vital." According to Vice Mayor Marin, the city possesses "extensive commercial, educational and recreational corridors, [but] it does not have a radio station which would directly serve the unique requirements of the City of North Miami Beach."⁹ Thus, a North Miami Beach radio station, such as WXDJ, "would be able to provide a local outlet for self-expression by the community for social and political concerns within the community."¹⁰

⁶ See North Miami Beach Community Profile ("Community Profile"), attached at Appendix A.

⁷ Id.

⁸ See New Age Petition at 8.

⁹ Letter from Raymond F. Marin, Vice-Mayor of North Miami Beach to Secretary, FCC, July 13, 1995, attached at Appendix B.

¹⁰ Id.

B. North Miami Beach Has a Distinct and Growing Residential Population with Unique Needs and Interests

The city has a vibrant and expanding residential population, which would benefit substantially by having its own radio voice. According to the 1990 Census, the local population was 35,359.¹¹ By 1994, the population had increased to 39,691, a jump of more than twelve percent in only four years.¹² The local population also includes an increasing number of Hispanic residents. According to statistics recently prepared for North Miami Beach, the city's Hispanic population rose from twenty-three percent in 1990 to twenty-seven percent in 1994.¹³ Because of the increasing numbers of Spanish-speaking citizens attracted to the city, North Miami Beach now publishes a special Spanish-language pamphlet for new residents.¹⁴

These growing needs are also recognized by officials of Dade County, the expansive metropolitan county that surrounds this local municipality. Rachel Tourgeman, Director of the Community Relations Board Intergroup Relations Program for Dade County, who has extensive community affairs experience throughout the metropolitan area, notes that North Miami Beach "seems to be the only municipality in [Dade] county without a local radio station."¹⁵ Indeed,

¹¹ See New Age Petition at 7.

¹² See North Miami Beach Economic Development Department Report, Aug. 11, 1994, attached at Appendix C.

¹³ Id.

¹⁴ See Bienvenido a North Miami Beach, attached at Appendix D.

¹⁵ Letter from Rachel Tourgeman, Director, CRB Intergroup Relations Group, to Secretary, FCC, July 12, 1995, attached at Appendix B.

Ms. Tourgeman, a Hispanic, acknowledges that North Miami Beach, which has special but "unaddressed" needs, has no media service specifically directed toward serving the interests of the local Hispanic population. WXDJ, Ms. Tourgeman writes, is an "excellent vehicle" for providing a forum for that community and could "do wonders for the people of North Miami Beach."¹⁶

WXDJ, as a Spanish-language station, could indeed serve this unique community well. WXDJ could provide much-needed broadcasts, in the native language of a large and growing population, of vital information regarding local emergencies, news, school matters, and availability of goods and services. This type of local service, clearly needed in North Miami Beach, is precisely the diverse programming that the Commission's allocations policies are designed to foster.

C. Local North Miami Beach Residents Boast a Distinct Social and Cultural Identity

North Miami Beach also possesses the social characteristics and services of a distinct and independent community. The city has numerous community centers -- including the Allen Park/DeLeonardis Youth Center, McDonald Senior Center, and the Highland Village, Uleta, and Washington Park Community Centers -- that serve the special needs of local residents.¹⁷ North Miami Beach also has a large local medical facility, Parkway Regional Medical Center, which

¹⁶ Id.

¹⁷ See North Miami Beach A Thru Z Welcome Guide to City Services, redacted, at 8 ("Welcome Guide"), attached at Appendix E.

is perhaps the most significant privately-owned hospital in South Florida and the city's largest employer.¹⁸

North Miami Beach has extensive educational facilities. In addition to the nine public schools noted above, the city is home to thirty-four private schools and the Southeastern University of Health Science, a noted medical training facility. In addition, Florida International University is located immediately adjacent to the city.¹⁹

The city offers numerous recreational and cultural opportunities for local residents. It maintains eight recreational parks. Performances and other cultural activities are held at the Senator Gwen Margolis Amphitheater and the North Miami Beach Cultural Center. The city even boasts its own North Miami Beach Symphony Orchestra.²⁰

Local residents are also investing in the city's cultural and social future. In 1993, residents approved a \$13 million bond issue for new city facilities to be combined with the City Hall complex to create a "Government Center," consisting of city offices, the newly-renovated Victory Park Cultural Arts Theater, recreation rooms, a playground, tennis courts, basketball courts, an Olympic-sized swimming pool, the North Miami Beach Cultural Center, a public plaza, and a state-of-the-art police facility.²¹ As such, "[t]he willingness of the residents to tax

¹⁸ See City of North Miami Beach, Economic Development UPDATE, Five Year Report (1988-1993), at 11 ("Five Year Report"), attached at Appendix F.

¹⁹ See Community Profile.

²⁰ See Id.; Five Year Report at 18.

²¹ Five Year Report at 18. See North Miami Beach Economic Development Update, Nov./Dec. 1993, attached at Appendix G.

themselves to invest in these projects is a strong statement about the community's commitment to a quality-of-life standard that is enjoyable, rewarding and secure."²²

North Miami Beach is home to numerous religious institutions, some of which have already expressly recognized the benefits that WXDJ, as the first local radio voice, could bring to the city.²³ One local religious leader, who has experienced first-hand the growth of the local Hispanic community, has expressed a need for a new radio voice to serve North Miami Beach in general and the Spanish-speaking population in particular. The Pastor of St. Lawrence Church writes that, with an expanding Hispanic population, North Miami Beach needs a "reputable radio station such as WXDJ-FM" to meet the needs of local residents.²⁴ Similarly, the President of Temple Sinai of North Dade, after noting the rapid growth of his synagogue (and of other local religious institutions) and the general spirit and vitality of the community, capsulizes its genuine need for self-expression as follows:

With all this positive energy, we lack any form of local forum for community discussions. North Miami Beach could certainly use, and needs access to a mass media. For this reason, I am strongly in favor of WXDJ-FM becoming licensed to North Miami Beach. The availability of their airwaves, and their ability to serve the needs of this vital and growing community would be a great plus to the entire multi-ethnic population. WXDJ could offer us an arena for discussion and debate. Their public service would serve our deserving community well. Please allow them the opportunity to become our city's radio station.²⁵

²² North Miami Beach Economic Development Update, Nov./Dec. 1993, attached at Appendix G.

²³ See Welcome Guide at 32.

²⁴ See letter from Rev. Roger Holoubek, Pastor, St. Lawrence Church to Secretary, FCC, July 20, 1995, attached at Appendix B.

²⁵ Letter from Richard Bergman, President, Temple Sinai of North Dade, to Secretary, FCC, July 19, 1995, attached at Appendix B.

The impression of North Miami Beach as a distinct community is also reinforced by the sentiments of its residents. Herbert Margolis, a resident of the city for almost a quarter century, describes North Miami Beach as "a unique community with its own identity" that would "greatly benefit by having its own radio station."²⁶

D. The City Possesses a Robust Local Economy, Which is Actively Promoted by Government and Business Leaders

In addition to having a unique cultural identity, North Miami Beach is a thriving commercial center. Indeed, according to one local leader, the "business areas of North Miami Beach are completely self-supporting, and totally independent of any other area in South Florida for their continuing fiscal well-being."²⁷ A business directory published by North Miami Beach spans more than fifty pages.²⁸ The city is in the top ten percent of all cities in Florida for total retail sales by volume.²⁹

For over four decades, North Miami Beach has served South Florida as one of its best known and most diversified shopping districts.³⁰ The city's retail operations, which occupy more than 6.5 million square feet of space, are anchored by two large regional malls, the Mall

²⁶ Letter from Herbert Margolis to Federal Communications Commission, July 19, 1995, attached at Appendix B.

²⁷ Letter of Richard Bergman, attached at Appendix B.

²⁸ See Welcome Guide.

²⁹ Five Year Report at 12.

³⁰ See Five Year Report at 8.

at 163rd Street (150 stores) and Aventura Mall (181 stores).³¹ Local retailers include nationally recognized companies -- such as Macy's, Home Depot, Toys R Us, and Ethan Allen Furniture - - that provide necessary goods and services for the local residential population.³² The city's robust retail activity has also grown dramatically: from 1988 to 1993, local sales rose fifty-seven percent.³³

In addition to the significant retail operations, North Miami Beach has office and industrial facilities that supply space and services for local commercial enterprises. The city has 1.1 million square feet of office space in almost one hundred separate facilities, and two light industrial districts (Golden Glade Interchange District, West Dixie Highway District).³⁴ Further, North Miami City has been called a "mini-Hollywood" because of the amount of film and record production that is completed in the city.³⁵

North Miami Beach, which is uniquely positioned between Ft. Lauderdale and Miami, has continued to grow by successfully attracting new business. On average, 174 new businesses open each year in the city.³⁶ From 1988 to 1993, 2,000 new jobs were created by a variety of North Miami Beach businesses, including shopping centers, restaurants, recreational facilities,

³¹ See Community Profile. The Aventura Mall is situated immediately adjacent to the North Miami Beach city boundary.

³² See North Miami Beach Newsletter, "The Right Place for Retail," attached at Appendix H.

³³ Five year Report at 13.

³⁴ See Community Profile.

³⁵ See Letter of Richard Bergman, attached at Appendix B.

³⁶ Five Year Report at 12.

and retailers. Other businesses have expended considerable sums to renovate existing properties with assistance from the city.³⁷

North Miami Beach is committed to promoting the continued economic health of the city by improving local areas and providing technical expertise to businesses. As one example, in 1994, the city enhanced an important commercial corridor by widening Biscayne Boulevard, improving lighting and pedestrian access, and putting in new landscaping. According to the city, the renovations were designed to provide a "big boost" and "spur investment" in the area.³⁸ Moreover, to encourage responsible growth, the city's Economic Development Department provides substantial economic and marketing expertise and information for interested local businesses.³⁹

Local businesses have organized for almost fifty years to promote their common commercial interests. The North Miami Beach Chamber of Commerce, established in 1949, actively promotes the interests of its more than 400 members, and publishes a color glossy directory (over 30 pages long) and monthly newsletters.⁴⁰

The North Miami Beach business community reflects the local nature of their enterprises. Over one dozen businesses are listed in the local telephone directory as incorporating "North

³⁷ See Five Year Report at 4, 8-10.

³⁸ See North Miami Beach Economic Development Update, Jan./Feb. 1994, attached at Appendix I. North Miami Beach has engaged in numerous other beautification projects throughout the city to promote local commercial activity. See North Miami Beach Economic Development Update, Mar./Apr. 1994, attached at Appendix J.

³⁹ Five Year Report at 20.

⁴⁰ See North Miami Beach Chamber of Commerce Brochure, "The Key to a Better Community," attached at Appendix L.

Miami Beach" in their trade names. Local businesses also list "North Miami Beach" as their commercial address.⁴¹

Local business leaders have expressed the unique commercial and cultural identity of North Miami Beach and its need for a truly independent radio voice. The President of the North Miami Beach Chamber of Commerce, Diane Blank, confirms the independence of the city as a "separate and distinct community" and thus supports the relocation of WXDJ.⁴² Other prominent North Miami Beach business leaders have recognized the "diverse population" of North Miami Beach, which "could be greatly served" by a local independent radio outlet, such as WXDJ.⁴³

In sum, North Miami Beach, a distinct and dynamic South Florida municipality, deserves its own independent radio voice. An expanding and increasingly diverse residential population relies on the North Miami Beach government for essential services. The availability of numerous recreational and cultural activities reflects the local population's uniqueness and its need for self-expression. A vibrant business community not only furnishes the local community with needed goods and services, it provides a strong economic base that promotes the fiscal security of its residents. This activity is characteristic of a prosperous, self-sufficient

⁴¹ See assorted business cards, attached at Appendix K.

⁴² Letter from Diane Blank, President, North Miami Beach Chamber of Commerce, July 20, 1995, attached at Appendix B.

⁴³ Letter from Nancy Gillen Doyle, Dunwright Productions, Incorporated, July 17, 1995, attached at Appendix B. See letter from William J. Bower Jr., Vice President/General Manager, Friendly Ford, Inc., to Russ Oasis, General Manager, WXDJ, July 12, 1995, attached at Appendix B.

community. As one local religious leader observed, North Miami Beach is "proud of the fact that our residents need not travel beyond our city lines to get everything they need for their daily lives."⁴⁴ That is, the community possesses all the vital services it needs, except its own radio voice.

IV. REALLOCATION OF WXDJ TO NORTH MIAMI BEACH WILL RESULT IN SUBSTANTIAL IMPROVEMENTS IN THE STATION'S SERVICE WITH ONLY A DE MINIMIS IMPACT ON EXISTING LISTENERS

The reallocation of WXDJ's channel to North Miami Beach will yield substantial overall public service benefits. As demonstrated in the attached engineering statement, a relocated WXDJ will provide a new alternative radio voice to 208,668 people (an increase of 8.2% over the population served by WXDJ's licensed 60 dBu contour) within the gain area of 113 km².⁴⁵ All of the persons within this gain area receive at least five radio signals.⁴⁶

In contrast, only 34,037 (1.3% of the population served by WXDJ's licensed 60 dBu contour) would theoretically lose service. As explained in the Petition, moreover, virtually all the area losing WXDJ's licensed service is uninhabited swampland.⁴⁷ Thus, even though WXDJ's loss area covers 5,313 km², the extremely low population density of the area (6.4

⁴⁴ Letter from Richard Bergman, attached at Appendix B.

⁴⁵ Engineering Report of Radiotechniques Engineering Corporation, dated July 27, 1995, at 1 ("Engineering Report").

⁴⁶ Id.

⁴⁷ New Age Petition at 9.

persons per square kilometer) results in a service loss that is truly de minimis.⁴⁸ The vast majority of people theoretically losing WXDJ's licensed service are "well served" by other radio stations. Of the 34,037 people losing service, 32,635 (96% of the loss population) will continue to receive five or more radio signals.⁴⁹ Two hundred one (201) people will retain three aural services, and 1,201 will still have two aural services.⁵⁰ Thus, relocation of WXDJ creates no "grey" or "white" areas.

Further, Homestead will be abundantly served. The entire city of Homestead would receive 63.7 dBu service from WXDJ at the allocation site and "reception" service (as defined in footnote 3 of the Notice) from twenty-two other radio stations (including WOIR, which is licensed to Homestead, and a pending noncommercial educational FM station at Homestead).⁵¹ Homestead also receives daytime service from an additional eleven AM stations.⁵² Thus, the

⁴⁸ Engineering Report at 1.

⁴⁹ Id. at 2.

⁵⁰ Id. at 2-3. The engineering statement attached to New Age's original Petition stated that 149 people would receive fewer than three aural services. Upon recomputing the loss populations for these Comments, it was discovered that due to a plotting error, an additional 1,052 people, who were identified in the Petition as receiving four alternative radio signals, should be included in the area defined as receiving two alternative services. However, as noted in the attached Engineering Report, discrepancies in area maps suggest that the number of additional people receiving two services is in fact overstated by the Census Bureau. Id. at 2 n.1.

⁵¹ See New Age Petition at 12; Engineering Report at 3-4. If "terrain roughness" factors were considered, WXDJ in fact would provide 65.7 dBu service to all of Homestead from the allocation site. Engineering Report at 4.

Moreover, as demonstrated in New Age's Petition, Homestead is completely interdependent with the Miami-Hialeah Urbanized Area. Consequently, Homestead should also be attributed all the transmission services in the Urbanized Area. New Age Petition at 4-7.

⁵² Engineering Report at 3.

proposed reallocation of WXDJ would in fact have no impact on the number of reception services available to Homestead.

The relocation of WXDJ, therefore, will yield significant public interest benefits. WXDJ will provide a new alternative radio service to over 208,000 people, resulting in a net population gain of 174,631.⁵³ Moreover, the change will have virtually no impact on existing listeners: only 1.3% of the people within WXDJ's licensed 60 dBu contour will theoretically lose service, all but 1,402 people (five one-hundredths of one percent of the listeners within the station's licensed 60 dBu contour) will continue to be well served, and no listener losing service will have fewer than two aural reception services. Indeed, these overall service gains are fully consistent with precedent, and in fact, far exceed the net gains recently approved by the Allocations Branch in Bon Air, Virginia, where 156,609 people lost service and 205,306 people gained service, for a net service gain of only 48,697.⁵⁴

The proposed change in community of license will not only provide a new alternative service to a significantly greater population with minimal loss, it will produce much-needed technical improvements to WXDJ's service. As noted in the Petition, the licensed facility provides a protected signal to the entire Miami-Hialeah Urbanized Area, but reception within the "urban canyon" of central Miami is not fully adequate.⁵⁵ Relocation of the station's

⁵³ Id. at 1.

⁵⁴ See Petition at 10-11; Bon Air, Chester, Mechanicsville, Ruckersville, Williamsburg and Fort Lee, Virginia, 7 FCC Rcd 6309 (Allocations Branch, 1992).

⁵⁵ New Age Petition at 11.

transmitter as contemplated by the instant proposal would result in substantial improvements in the reception of the station's signal in these areas.

V. CONCLUSION

The proposed change in WXDJ's community of license from Homestead to North Miami Beach complies fully with the Commission's allocations policies and provides substantial public service benefits. The relocation would furnish North Miami Beach with its first local transmission service. The city, comprised of a vibrant and growing residential and commercial base, clearly deserves, and would greatly benefit from, its own independent broadcast voice. WXDJ, which provides Spanish-language programming, is uniquely situated to provide a valuable service to North Miami Beach's expanding general and Hispanic populations. Indeed, leaders from North Miami Beach's government, business, and religious sectors have strongly attested to the independence of the city and its need for a local broadcast service.

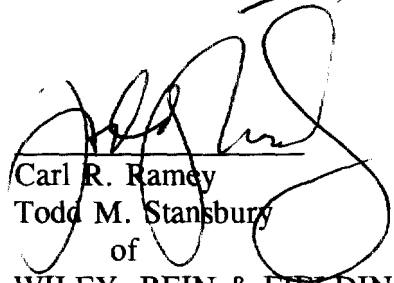
Finally, consistent with the Commission's allotment priorities, the proposed relocation of WXDJ to North Miami Beach will provide over 200,000 people with a valuable alternative radio voice, while the minimal number of listeners losing WXDJ's licensed service will continue to receive a plethora of other aural services. Indeed, Homestead itself will remain amply served by local transmission and reception services, including WXDJ.

Therefore, in light of the foregoing, New Age respectfully requests that the Commission expeditiously adopt the Notice and amend the FM Table of Allotments to delete Channel 239C1 from Homestead, Florida, add Channel 239C2 to North Miami Beach, Florida, and modify WXDJ's license accordingly.

Respectfully submitted,

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APPENDIX A

NORTH MIAMI BEACH COMMUNITY PROFILE

North Miami Beach

The Crossroads of South Florida

Community Profile